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## **SECURITIES AND EXCHANGE COMMISSION**

**[SEC File No. 270-495, OMB Control No. 3235-0553]**

### **Submission for OMB Review; Comment Request**

Upon Written Request, Copies Available From:

Securities and Exchange Commission

Office of FOIA Services

100 F St., NE

Washington, DC 20549-2736

Extension: Rule 19b-7 and Form 19b-7

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq. “PRA”), the Securities and Exchange Commission (“SEC” or “Commission”) has submitted to the Office of Management and Budget (“OMB”) a request for approval of extension of the existing collection of information provided for in Rule 19b-7 (17 CFR 240.19b-7) and Form 19b-7 - Filings with respect to proposed rule changes submitted pursuant to Section 19b(7) under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) (“Exchange Act”).

The Exchange Act provides a framework for self-regulation under which various entities involved in the securities business, including national securities exchanges and national securities associations (collectively, self-regulatory organizations or “SROs”), have primary responsibility for regulating their members or participants. The role of the Commission in this framework is primarily one of oversight; the Exchange Act charges the Commission with supervising the SROs and assuring that each complies with and advances the policies of the Exchange Act.

The Exchange Act was amended by the Commodity Futures Modernization Act of 2000 (“CFMA”). Prior to the CFMA, federal law did not allow the trading of futures on individual stocks or on narrow-based stock indexes (collectively, “security futures products”). The CFMA removed this restriction and provided

that trading in security futures products would be regulated jointly by the Commission and the Commodity Futures Trading Commission ("CFTC").

The Exchange Act requires all SROs to submit to the SEC any proposals to amend, add, or delete any of their rules. Certain entities (Security Futures Product Exchanges) would be notice registered national securities exchanges only because they trade security futures products. Similarly, certain entities (Limited Purpose National Securities Associations) would be limited purpose national securities associations only because their members trade security futures products. The Exchange Act, as amended by the CFMA, established a procedure for Security Futures Product Exchanges and Limited Purpose National Securities Associations to provide notice of proposed rule changes relating to certain matters.<sup>1</sup> Rule 19b-7 and Form 19b-7 implemented this procedure. Effective April 28, 2008, the SEC amended Rule 19b-7 and Form 19b-7 to require that Form 19b-7 be submitted electronically.<sup>2</sup>

The collection of information is designed to provide the Commission with the information necessary to determine, as required by the Exchange Act, whether the proposed rule change is consistent with the Exchange Act and the rules thereunder. The information is used to determine if the proposed rule change should remain in effect or abrogated.

The respondents to the collection of information are SROs. Three respondents file an average total of approximately 2 responses per year.<sup>3</sup> Each response takes approximately 12.5 hours to complete and each amendment takes approximately 3 hours to complete, which correspond to an estimated annual response

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<sup>1</sup> These matters are higher margin levels, fraud or manipulation, recordkeeping, reporting, listing standards, or decimal pricing for security futures products; sales practices for security futures products for persons who effect transactions in security futures products; or rules effectuating the obligation of Security Futures Product Exchanges and Limited Purpose National Securities Associations to enforce the securities laws. See 15 U.S.C. 78s(b)(7)(A).

<sup>2</sup> See Securities Exchange Act Release No. 57526 (March 19, 2008), 73 FR 16179 (March 27, 2008).

<sup>3</sup> There are currently four Security Futures Product Exchanges and one Limited Purpose National Securities Association, the National Futures Authority. However, two Security Futures Product Exchanges currently do not trade security futures products and, as a result, have not been filing proposed rule changes. Therefore, there are currently three respondents to Form 19b-7.

burden of 25 hours ((2 rule change proposals x 12.5 hours) + (0 amendments<sup>4</sup> x 3 hours)). The average internal cost of compliance per response is \$5,050 (11.5 legal hours multiplied by an average hourly rate of \$420<sup>5</sup> plus 1 hour of paralegal work multiplied by an average hourly rate of \$220<sup>6</sup>). The total resulting internal cost of compliance for a respondent is \$10,100 per year (2 responses x \$5,050 per response).

In addition to filing its proposed rule changes, and any amendments thereto, with the Commission, a respondent is also required to post each of its proposals and any amendments thereto, on its website. This process takes approximately 0.5 hours to complete per proposal and 0.5 hours per amendment. Thus, for the approximately 2 responses and 0 amendments,<sup>7</sup> the total annual reporting burden on a respondent to post these on its website is 1 hour ((2 proposals per year x 0.5 hours per filing) + (0 amendments x 0.5 hours)). Further, a respondent is required to update its rulebook, which it maintains on its website, to reflect the changes that it makes in each proposal and any amendment thereto. Thus, for all filings that were not withdrawn by a respondent (0 withdrawn filings in calendar years 2017-2019) or disapproved by the Commission (0 disapproved filings in calendar years 2017-2019), a respondent was required to update its online rulebook to reflect the effectiveness of 3 filings on average, each of which takes approximately 4 hours to complete per proposal. Thus, the total annual reporting burden for updating an online rulebook is 8 hours ((2 filings per year - 0 withdrawn filings - 0 disapproved filings) x 4 hours).

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<sup>4</sup> SEC staff notes that even though no amendments were received in the previous three years and that staff does not anticipate the receipt of any amendments, calculation of amendments is a separate step in the calculation of the PRA burden and it is possible that amendments are filed in the future. Therefore, instead of removing the calculation altogether, staff has shown the calculation as anticipating zero amendments.

<sup>5</sup> The \$420 per hour figure for an Attorney is from SIFMA's *Management & Professional Earnings in the Securities Industry 2013*, modified by Commission staff to account for inflation and an 1800-hour work-year and then multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

<sup>6</sup> The \$220 per hour figure for a Paralegal is from SIFMA's *Management & Professional Earnings in the Securities Industry 2013*, modified by Commission staff to account for inflation and an 1800-hour work-year and then multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

<sup>7</sup> See supra note 4.

Compliance with Rule 19b-7 is mandatory. Information received in response to Rule 19b-7 is not kept confidential; the information collected is public information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: >[www.reginfo.gov](http://www.reginfo.gov)<. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i)

>[MBX.OMB.OIRA.SEC\\_desk\\_officer@omb.eop.gov](mailto:MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov)< and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street, NE, Washington, DC 20549, or by sending an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: September 15, 2020.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*